

HOUSE BILL NO. 575

INTRODUCED BY J. KEANE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATED TO THE DISPOSAL OF PROPERTY BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; DEFINING THE TERM "DISPOSE"; AND AMENDING SECTION 87-1-209, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-1-209, MCA, is amended to read:

"87-1-209. Acquisition and sale of ~~lands~~ land or ~~waters~~ water rights -- easements. (1) The department, with the consent of the commission and, in the case of land acquisition involving more than 100 acres or \$100,000 in value, with the approval of the board of land commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon ~~lands~~ land or waters for the purposes listed in this subsection. The department may develop, operate, and maintain ~~acquired lands~~ land or waters upon which an easement has been acquired:

(a) for fish hatcheries or nursery ponds;

(b) as ~~lands~~ land or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

(e) for state parks and outdoor recreation;

(f) to extend and consolidate by exchange, ~~lands~~ land or waters suitable for these purposes.

(2) The department, with the consent of the commission, may acquire by condemnation, as provided in Title 70, chapter 30, ~~lands~~ land or structures for the preservation of historical or archaeological sites that are threatened with destruction or alteration.

(3) (a) The department, with the consent of the commission, may dispose of ~~lands~~ land and water rights acquired by it on those terms after public notice as required by subsection ~~(3)(b)~~ (3)(c), without regard to other

1 laws that provide for sale or disposal of state ~~lands~~ land and with or without reservation, as it considers
2 necessary and advisable. The department, with the consent of the commission, may convey department ~~lands~~
3 land and water rights for full market value to other governmental entities without regard to the requirements of
4 subsection ~~(3)(b)~~ (3)(c) or ~~(3)(e)~~ (3)(d) if the land is less than 10 acres or if the full market value of the interest
5 to be conveyed is less than \$20,000. When the department conveys land or water rights to another
6 governmental entity pursuant to this subsection, the department, in addition to giving notice pursuant to
7 subsection ~~(3)(b)~~ (3)(c), shall give notice by mail to the landowners whose property adjoins the department
8 property being conveyed.

9 (b) For purposes of subsection (3)(a), the term "dispose" includes but is not limited to the granting of
10 a leasehold estate or similar interest for a term or terms of 5 years or more.

11 ~~(b)(c)~~ Notice of sale describing the ~~lands~~ land or ~~waters~~ water rights to be disposed of must be
12 published once a week for 3 successive weeks in a newspaper with general circulation printed and published
13 in the county where the ~~lands~~ land or waters are situated or, if a newspaper is not published in that county, then
14 in any newspaper with general circulation in that county.

15 ~~(e)(d)~~ The notice must advertise for cash bids to be presented to the director within 60 days from the
16 date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount
17 equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10
18 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance
19 due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits
20 must be returned to the unsuccessful bidders except bidders defaulting after notification.

21 ~~(d)(e)~~ The department shall reserve the right to reject any bids that do not equal or exceed the full
22 market value of the ~~lands~~ land and ~~waters~~ water rights as determined by the department. If the department does
23 not receive a bid that equals or exceeds fair market value, it may then sell the ~~lands~~ land or water rights at
24 private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process.

25 (4) The department shall convey ~~lands~~ land and water rights without covenants of warranty by deed
26 executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the
27 secretary of state and further countersigned by the director.

28 (5) The department, with the consent of the commission, is authorized to utilize the installment contract
29 method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing
30 animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites

1 for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the
2 department and appropriated by the legislature.

3 (6) The department is authorized to enter into leases of land under its control in exchange for services
4 to be provided by the lessee on the leased land."

5 - END -